

HOUSE BILL 2683
By Campfield

AN ACT to amend Tennessee Code Annotated, Title 12
and Title 29, relative to eminent domain.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 1, is amended by adding
the following new part 3:

§ 12-1-301.

As used in this part, unless the context otherwise requires:

(1) "Economic development" means any activity or endeavor to increase tax
revenue, expand a tax base, increase employment, or promote or stimulate general
economic health, when such activity or endeavor does not result in:

(A) The transfer of land to public ownership;

(B) The transfer of land to a private entity that is a common carrier, such
as a railroad or utility; or

(C) The transfer of land to a private entity when the purpose of
acquisition of the property by eminent domain is to remove a threat to public
health or safety, such as the removal of public nuisances, removal of structures
that are beyond repair or that are unfit for human habitation or use, or acquisition
of abandoned property;

Economic development does not include the lease of property to a private entity that
occupies an incidental area within a public project such as retail space on the ground
floor of a public building;

(2) "Governmental entity" means the federal government or any federal agency,
the state of Tennessee or any political subdivision of the state of Tennessee including,

but not limited to, any municipality, utility district, school district, public building authority, and development district created and existing pursuant to the constitution and laws of Tennessee, or any instrumentality of government created by any one (1) or more municipalities or by an act of the general assembly;

(3) "Municipality" means any county, metropolitan government, incorporated city or town in the state of Tennessee;

(4) "Private entity" means an individual, partnership, association, corporation, or any other organization or group of persons that is not a governmental entity;

(5) "Private property" means real property, or improvements to real property, not owned by a governmental entity; and

(6) "Public use" means the possession, occupation, and enjoyment of land by the general public, or by a governmental entity; the use of land for the creation or functioning of public utilities; the acquisition of property to cure a concrete harmful effect of the current use of the land, including the removal of public nuisances, structures that are beyond repair or that are unfit for human habitation or use, and the acquisition of abandoned property. A public benefit of economic development, including increase in tax revenue, expansion of a tax base, increase in employment, or promotion or stimulation of general economic health, shall not constitute a public use.

§ 12-1-302.

(a) A state or local governmental entity or any entity that has been granted the power of eminent domain shall not condemn private property and sell, lease or otherwise transfer such property to a private entity, if such property is not taken for a public use.

(b) The taking of private property through eminent domain for the purpose of selling, leasing or otherwise transferring such property to a private entity to be used by such private entity for economic development shall not constitute a public use. It shall

be prima facie evidence that the purpose of a taking is for economic development if a sale, lease or transfer of the property results in economic development by or benefiting a private entity.

§ 12-1-303.

A municipality shall not sell, lease or otherwise transfer real property it acquires through eminent domain for a period of five (5) years following the acquisition of the property.

SECTION 3. This act shall take effect July 1, 2006, the public welfare requiring it.